

STATE OF NEW YORK
COUNTY COURT

COUNTY OF ERIE

HSBC BANK USA, N.A.,

AFFIRMATION

Plaintiff,

-VS-

CHRISTOPHER M. WHITE A/K/A CHRISTOPHER WHITE; HSBC MORTGAGE CORPORATION (USA); BUFFALO URBAN RENEWAL AGENCY; BENEFICIAL HOMEOWNER SERVICE CORPORATION; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE CIVIL ENFORCEMENT-CO-ATC; "JOHN DOE" AND "JANE DOE" said names being fictitious, it being the intention of Plaintiff to designate any and all occupants of the premises being foreclosed herein,

Index No. 2013605767

Defendant(s).

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

CRAIG K. BEIDEMAN, an attorney duly licensed to practice law in the State of New York, hereby affirms under penalty of perjury pursuant to CPLR 2106 as follows:

1. I am associated with the law firm of Fein, Such & Crane, LLP, attorneys for Plaintiff herein and as such am fully familiar with the facts of the litigation after a review of the files, paperless and otherwise, kept on this file in the ordinary course of the foreclosure prosecution, the loan origination file and/or communications with my client.
2. I make this affirmation in further opposition to Defendant Christopher M. White a/k/a Christopher White's motion which seeks to bar Plaintiff from recovering allegedly unsubstantiated and unreasonable fees and costs.

3. In the representing our clients in mortgage foreclosure action, this firm performs the following services when a matter, such as the instant action, does not progress to the appointment of a referee.

Service	Attorney Time	Paralegal Time
Receive Referral. Confirm receipt of referral and with client. Setup hardcopy, paperless, and electronic file. Obtain and confirm default date, unpaid principal balance, and interest rate. Obtain full payoff and reinstatement figures		.5 hours
Request and follow-up for receipt of all documents necessary for preparation of Summons & Complaint. Review all documents, including original note and mortgage. Copy all documents. Attorney-certify copy of note. Redact non-public information from documents	.5 hours	.5 hours
Perform and review Department of Defense search to verify non-military status of borrower. Performed at time of Referral and at filing of Summons & Complaint	(.1 hours per occurrence) .2 hours	(.25 hours per occurrence) .5 hours
Perform and review search of bankruptcy records	.1 hours	.25 hours
Draft, review, and send a Debt Validation Letter	.25 hours	.25 hours
Review contractually required pre-foreclosure notices to determine applicability and sufficiency of notice	.25 hours	
Review statutorily required pre-foreclosure notices to determine applicability and	.25 hours	

sufficiency of notice		
Draft, Review, and Send pre-foreclosure notices	.3 hours	.5 hours
Review RPAPL § 1306 receipt from New York State Department of Financial Services to confirm proper and timely registration of RPAPL § 1304 notice	.1 hours	.1 hours
Order and review title report for subject premises and all underlying publicly filed documents annexed to report	1 hour	.5 hours
Draft and Review Notice of Pendency	.2 hours	.5 hours
Organize, Collate, and Quality Control Redactions on Schedules to be included in Complaint	.2 hours	.3 hours
Draft and Review Summons & Complaint	.5 hours	1.5 hours
Consult with client to meet obligations under CPLR 3012-b. Draft and Review Certificate of Merit	.25 hours	.6 hours
Amendments to Complaint after CPLR 3012-b consultation	.3 hours	1 hour
Prepare the checks for filing		.1 hours
Prepare and review application for purchase of Index Number; Obtain Index Number	.1 hours	.2 hours
Review updated title report for new interests attaching to the subject premises between the certified title search and the filing of the Notice of Pendency	.1 hours	.1 hours
Track filing of pleadings		.1 hours
Organization of filed Summons & Complaint for placement of request for		.3 hours

service of process, Obtain service of pleadings. Monitor process servicer to ensure completion of service. Monitor process servicer to ensure completion of service		
Receive and review Affidavits of Service. Calculate time to answer Complaint for all defendants	.2 hours	.3 hours
Draft, Review, and file Request for Judicial Intervention	.1 hours	.75 hours
Draft, Review, and file Stipulation of Discontinuance	.25 hours	1.5 hours
Scan and preserve all documents and pleadings into paperless and electronic files		.2 hours
Prepare, generate, and review invoice for services, including providing back-up documentation for each service		1 hour
Miscellaneous accounting chores		.3 hours
Communication and updates with and to client on proceeding of action	.3 hours	1 hour
File/System Notation		.5 hours
Quality Control Auditing		.3 hours
TOTAL	5.55 hours	13.65 hours

4. When providing services at an hourly rate, your affiant's firm charges \$325.00/hour for partner time, \$250.00/hour for associate time, and \$100.00/hour for paralegal time.

$$5.25 \text{ hours of partner time} \times \$325.00/\text{hour} = \$1,706.25$$

$$.25 \text{ hours of associate time (Stipulation of Discontinuance)} \times \$250.00 = \$62.50$$

$$13.65 \text{ hours} \times \$100.00 \text{ hour} = \$1,365.00$$

$$\$1,706.25 + \$62.50 + \$1,365.00 = \$3,133.75$$

5. Further, while there is not a set hourly Fannie Mae or Freddie Mac rate for the performance of the foregoing services, calculating the fee based upon the Fannie Mae litigation rate of \$215.00/hour for attorney time and \$90.00/hour for paralegal time is also instructive.

$$5.5 \text{ hours} \times \$215/\text{hour} = \$1,193.25$$

$$13.65 \text{ hours} \times \$90.00/\text{hour} = \$1,228.50$$

$$\$1,193.25 + \$1,228.50 = \$2,421.75$$

6. Therefore, if the attorneys' fees were calculated at an hourly rate they would be between \$391.75 and \$1,103.75 greater than the amount currently being charged.
7. Further, the overall costs of doing business and the expense to the firm of providing all related foreclosure services must be considered. Modern foreclosure practice is not an attorney billing for his time as he drafts a compliant using Microsoft Word. Rather, there are weighty and expensive, IT security requirements that must be in place to manage and protect a borrower's and client's information. Moreover, there have been dramatic increases in malpractice and other insurance costs for practitioners in this field. Indeed, in recent years the default industry has seen firms losing money year after year given these increased costs. Fannie Mae was aware of all these circumstances when in crated its current fee schedule.
8. The Court should also consider the experience and abilities of the firm which charges its client for services. Your affiants firm is a leader in foreclosure and creditor's rights in this State both in terms of number of filings and files managed.

The attorneys of this firm are often consulted by various Court's in this State as to foreclosure practice and frequently present on foreclosure and creditor rights topics, both in the State and nationally. This firm's experience, skill and ability are among the best in this State and our client's have rewarded us with their work as a testament to these facts.

9. Accordingly, it is respectfully submitted that the attorneys fees are just, reasonable, and fair.

Sworn to December 2, 2014



Craig K. Beideman, Esq.

I certify that to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the above-paper[s] or the contentions therein are not frivolous as defined in subsection [c] of Section 130.1.1.



Craig K. Beideman, Esq.